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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARITZA RIZO,) No.: 3:12-CV-04520-RS
)
Plaintiff,)
) STIPULATION AND [PROPOSED]
v.) ORDER FOR THE AWARD OF EQUAL
) ACCESS TO JUSTICE FEES
CAROLYN W. COLVIN, ¹)
Acting Commissioner,)
Social Security Administration,)
)
Defendant.)
)

The parties hereby stipulate through counsel that, subject to the Court's approval, Plaintiff shall be awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. 2412(d), in the amount of FIVE THOUSAND AND FIVE HUNDRED DOLLARS (\$5,500.). This amount represents compensation for all legal services rendered

¹ Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Commissioner Michael J. Astrue as Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). For simplicity, Plaintiff will refer to the Acting Commissioner as the Commissioner.

STIPULATION AND ORDER

to Plaintiff by counsel in connection with this civil action, and is awarded in accordance with 28 U.S.C. § 2412(d). After the Court issues an order for EAJA fees, expenses and costs to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees and expenses and costs to Plaintiff's attorney. Pursuant to *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010), the ability to honor the assignment will depend on whether the fees, expenses and costs are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees, expenses and costs is entered, the government will determine whether they are subject to any offset.

Fees, expenses and costs shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Harvey P. Sackett, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, expenses and costs, and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees and expenses and costs in connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

Dated: October 25, 2013

/s/
 HARVEY P. SACKETT
 Attorney for Plaintiff
 MARITZA RIZO

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MELINDA L. HAAG
United States Attorney

Dated: October 25, 2013

/s/
ANNABELLE YANG
Special Assistant United States Attorney
Attorney for Defendant
(as authorized via e-mail)

IT IS SO ORDERED.

Dated: 11/5/13


RICHARD SEEBORG
United States District Court Judge